



## **Staff Report for Committee of the Whole Meeting**

**Date of Meeting:** September 17, 2018

**Report Number:** SRCFS.18.046

**Department:** Corporate and Financial Services

**Division:** Office of the Clerk

**Subject:** **SRCFS.18.046 – Revised Procedural By-law for Council and Committee meetings**

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### **Purpose:**

To recommend the adoption of a revised Procedural By-law for Council and Committee meetings as a result of amendments to the *Municipal Act, 2001*, S.O. 2001, c. 25 ("Municipal Act" or "Act") as well as the implementation of an electronic meeting management system.

### **Recommendation(s):**

- a) That staff report SRCFS.18.046 be received.
- b) That the proposed amendments to the Procedure By-law 74-12, as amended, attached as Appendix 'A' to staff report SRCFS.18.046, be approved.
- c) That a new Procedural By-law incorporating all the amendments, with an effective date of December 1, 2018, be enacted.
- d) That staff report back on options to include an acknowledgment of indigenous ancestral lands as part of the Council Meetings Opening Statement.
- e) That the Clerk be authorized to establish separate rules of procedure for the Accessibility Advisory Committee, including rules that permit electronic participation in meetings.

### **Contact Person:**

Stephen M.A. Huycke, Director, Legislative Services/Town Clerk, extension 2529

Gloria Collier, Deputy Town Clerk, extension 3619

## **Report Approval:**

**Submitted by:** Mary-Anne Dempster, Commissioner of Corporate and Financial Services

**Approved by:** Neil Garbe, Chief Administrative Officer

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), Town Solicitor (as required), Commissioner, and Chief Administrative Officer. Details of the reports approval are attached.

## **Background:**

Subsection 238(2) of the Municipal Act requires every Ontario municipality to pass a procedure by-law governing the calling, place and proceedings of meetings. Council enacted Procedural By-law 74-12 on September 24, 2012 ("By-law 74-12"). A copy of By-law 74-12, as amended, is attached as Attachment B. By-law 74-12 is based on best practices in other municipalities as well as *Robert's Rules of Order*.

The Municipal Act was amended by Bill 68 in 2017. Bill 68 has amended some of the Act's rules related to the procedures that must be followed in Council and Committee meetings. These amendments to the Municipal Act require an update to the procedural by-law. Richmond Hill has also implemented eSCRIBE, an electronic meeting management system, which require further amendments to the procedural by-law.

Staff recommend that a new rules of procedure (Attachment "C") be enacted with an effective date of December 1, 2018, the start of the 2018-2022 Council Term. The new procedural by-law incorporates all the amendments listed in Attachment A. Some of these amendments are discussed in detail below.

## **Bill 68 Amendments**

### **Closed Session Meeting Rules**

Bill 68 amended subsection 239(2) of the Act, creating four (4) additional reasons why Council may hold a closed session meeting. Those reasons are:

- "(h) information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them;
- (i) a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (j) a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; or

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- (k) a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.”

To simplify the procedural by-law, staff propose to remove the list of specific reasons (e.g. personal information, solicitor-client privilege, labour relations, etc.) why Council may hold a closed session meeting from the by-law. Instead of a list of reasons, Subsections 5.3.1 (b) and 5.3.1 (c) of the By-law are amended to reference to the sections in the Municipal Act that permit a closed session meeting. This means that Council can rely on sections of the Municipal Act to hold a Closed Session meeting without reference to the procedural by-law. The benefit of this approach is that if the Municipal Act is further amended the Procedural by-law will not need to be updated.

### **Electronic Meeting Participation**

Bill 68 has amended Section 238 of the Act by adding the following subsections:

“(3.1) The applicable procedure by-law may provide that a member of council, of a local board or of a committee of either of them, can participate electronically in a meeting which is open to the public to the extent and in the manner set out in the by-law provided that any such member shall not be counted in determining whether or not a quorum of members is present at any point in time.

(3.2) The applicable procedure by-law shall not provide that a member of council, of a local board or of a committee of either of them, can participate electronically in a meeting which is closed to the public.”

As recently as May 8, 2017 (see Staff Report SRCAO.17.11), Council endorsed comments on Bill 68 that electronic participation in a meeting should be limited to Accessibility Advisory Committee meetings only. Consistent with Council's position, the revised procedural by-law includes a new section 5.1.12 prohibiting electronic meeting participation.

### **Electronic Meeting Management (eSCRIBE) Amendments**

The introduction of an electronic meeting management system has required changes to the Council/Committee agenda and minute business processes. Many of the changes relate to how staff reports are prepared and placed on a meeting agenda, processes which are administrative and not set out in the procedure by-law. eSCRIBE has currently been implemented for Committee of the Whole and Council meetings, with additional committee and meeting types being added in 2018 and 2019.

### **Order of Agenda**

The launch of eSCRIBE requires amendments to the procedural by-law rules that describe the Order of Agenda (Section 5.4.1 of By-law 74-12 sets out the order of agenda for Council Meetings, and Section 7.3 of By-law 74-12 sets out the order of agenda for COW Meetings). Both sections have been revised to reflect the new order of agenda items resulting from the implementation of eSCRIBE.

## **Other Amendments**

In addition to those amendments required by Bill 68 and the implementation of eSCRIBE, staff recommend that the procedural by-law be further amended to:

1. Clarify current procedures;
2. More accurately reflect current practices; and/or
3. Respond to concerns raised by Members of Council.

Several of these proposed amendments are discussed below.

### **Definitions**

Staff recommend that the procedural by-law be amended to include new definitions (Friendly Amendment, Members Motion, Motion to Amend and Motion to Refer Directly to Council) as well as update current definitions (e.g. Acting Mayor, Chief Administrative Officer, Clerk, Deputy Mayor and Majority Vote, Motion to Defer, Motion to Refer). The amendments to the definitions better align the procedural by-law with the Municipal Act (e.g. Electronic Participation, and Conflict of Interest), improve the clarity of the definitions (e.g. Chief Administrative Officer and Clerk) or relate to new proposed provisions in the by-law (e.g. Friendly Amendment or Motion to Amend).

### **Deputy Mayor and Acting Mayor Provisions**

Section 4.2 and 4.3 of the procedural by-law related to the positions of Deputy Mayor and Acting Mayor have been amended to ensure that these important roles are maintained in the event of a Regional & Local Councillor seat becoming vacant during the term of Council. These amendments do not change current practice. Under the Procedural By-law, the Deputy Mayor fulfills any of the Mayor's responsibilities in the absence of the Mayor. If the absence of both the Mayor and Deputy Mayor, the Acting Mayor fulfills the Mayor's responsibilities.

### **Location and Date of Meeting**

Section 5.1.5, 5.1.6 and 7.1.4 have been amended to reflect current meeting location and date practices. Section 5.1.6 has been amended to permit Special Council meetings to be held at a location other than in the Council Chambers (e.g. the Inaugural Council meeting is held at the Richmond Hill Centre for the Performing Arts). Sections 5.1.5 and 7.1.4 have been amended to reflect the practice related to meeting dates in a calendar year.

### **Public Participation and Correspondence**

The proposed procedural by-law clarifies the rules for delegations, but does not change any current practice. The rules on public participation ensure meeting efficiency without limiting the right of the public to participate. Sections 5.5.4(a) to 5.5.4(e) of the proposed by-law clarify that:

1. Delegations must relate to an item of business on the agenda [section 5.5.4(a)];

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2. Delegates who have addressed Committee of the Whole will only be permitted to speak to the item at Council if they have new information to provide [section 5.5.4(b)];
3. Delegations must register with the Office of the Clerk by 12:00 pm on the day of the meeting [section 5.5.4(b)]; and
4. Ensures that only one representative of the same organization (corporations, developers, etc.) may speak to the same item [Section 5.5.4(c)].

With the exception of Section 5.5.4(c) (one representative for corporations) these amendments restate the current practice. Additionally, Section 5.5.4(d) permits Council to consider delegations that do not meet these requirements if it chooses.

**Petitions, Written Submissions and other Correspondence**

Council correspondence generally falls into 3 categories: 1) correspondence from other governments (e.g. other municipal resolutions); 2) correspondence related to Agenda Items; and, 3) correspondence from stakeholders on matters not related to an Agenda Item (e.g. petitions). The proposed changes will clarify how petitions and correspondence will be processed by the Office of the Clerk. The following highlights the proposed by-law:

1. The rules related to petitions have not changed;
2. The rules about correspondence related to agenda items have been clarified to reflect current practice (e.g. correspondence will be put on the agenda if it is received by 12:00 pm on the day of the meeting, or circulated electronically to the Mayor and Members of Council if received after this deadline);
3. Correspondence (other than petitions) not related to an agenda item will not be included on an agenda if it relates to a matter that Council has already delegated to staff; and,
4. Correspondence from the Government of Canada, the Government of Ontario and other York Region Municipalities will be circulated to the Mayor and Members of Council (who can request that the correspondence be endorsed by Council through a Members Motion).

**Members Motions**

The current practice of Member Motions is not well defined in the procedure by-law. Additionally, Members of Council have suggested that the rules be clarified to ensure that Members Motions generally relate to matters that are within the jurisdiction of the Town. The proposed by-law defines a Members Motion as “a Motion proposed by a Member that is included as Additional Business to an Agenda.” Section 5.4.5 (c) of the revised procedural by-law provides clarity as to what a Members Motion can be related to as follows:

“5.4.5 (c) A Members Motion may only be included on the Agenda if:

- i) It pertains to a matter over which Richmond Hill has jurisdiction or which is a matter of municipal concern;
- ii) It is a resolution or correspondence referred to in Section 5.6.2 (Correspondence – Public Institutions); or
- iii) It is seeking leave to introduce a Members Motion on a matter not referred to in clause (i) and (ii)."

Paragraph 5.4.5 (c)(iii) ensures that if the proposed topic of a Members Motion does not relate to the Town's jurisdiction, a municipal concern or government correspondence, Members of Council can obtain Council's permission to consider any matter.

### **Motions - General**

The proposed rules of procedure clarify the rules regarding several procedural motions.

#### **1. Motion to Refer [Section 5.7.10]**

The Motion to Refer has been refined to make it clear that the motion can be amended to change the staff or committee that a matter is being sent to. This amendment is in line with *Robert's Rules of Order*. Additionally, it is proposed that a new section 7.5.2 be included to clarify the rules related to Committee of the Whole referring an agenda item directly to council.

#### **2. Friendly Amendment [Section 5.7.13]**

The draft by-law proposes to include a "Friendly Amendment" provision. The by-law defines Friendly Amendment as meaning that the Motion under debate is amended with the consent of the mover, and the seconder, without the requirement for a Motion to Amend to be made and voted on. This reflects a practice that has been used by Council for very minor amendments. Any Member, however, may object to the Friendly Amendment at which time a Motion can only be amended by the formal Motion to Amend.

#### **3. Motion to Reconsider [Section 5.7.14]**

Currently any matter can be reconsidered without any Motion to Reconsider that was passed in the previous term of Council or that was passed more than 6 months prior in the current term of Council. When a Motion to Reconsider is moved within 6 months of the matter first being considered, that motion only requires a majority vote to pass. The draft by-law proposes to amend the reconsideration rules by: 1) requiring a two-thirds vote for any matter reconsidered within 6 months of it first being adopted by Council; and 2) clarifying that Council should be provided information on significant legal or contractual obligations before reconsidering certain matters.

#### **4. Motion to Refer Directly to Council [Section 7.5.2]**

The draft by-law proposes to create a “Motion to Refer Directly to Council” to provide clarity to what happens when Committee of the Whole is sending a matter to Council without adopting recommendations.

### **By-laws**

The draft procedural by-law proposes to allow staff to place routine by-laws directly on the Council agenda without a prior staff report. The current rules require a prior staff report for almost every by-law, staff reports that are often identical to previous ones. To improve meeting efficiency by reducing the number of routine staff reports and by-laws, it is proposed that staff be permitted to place the following by-laws directly on a Council agenda:

1. Those directed to be presented directly to Council by Committee of the Whole or Council;
2. The appointment of staff for by-law inspection, municipal law enforcement and provincial offences administration;
3. Consolidation of by-laws or housekeeping amendments;
4. General by-laws where the purpose and intent of the by-law has been clearly authorized by a previous resolution;
5. A by-law to levy interim property taxes;
6. A by-law to set tax rates in accordance with the approved budget;
7. Part-lot control by-laws;
8. Minor amendments resulting from changes to provincial enabling legislation;
9. Other administrative by-laws deemed appropriate by the Chief Administrative Officer.

### **Acknowledging Indigenous Lands**

Many levels of government, including other municipalities and organizations, formally acknowledge at civic and special meetings that they are gathering on indigenous ancestral lands. Such acknowledgment recognizes the important role and place that indigenous persons have in both Canada’s history and present day. The Region of York and the City of Markham have incorporated such indigenous land acknowledgements into some of their Council meetings. Staff recommend that Council incorporate an indigenous land acknowledgement into its regular Council meetings as part of the opening statement. If approved, staff will report back on options to amend the opening statement.

### **Accessibility Advisory Committee**

As part of the update to Council’s procedural by-law, staff recommend that separate rules of procedure be established by the Clerk for the Accessibility Advisory Committee (the “AAC”). These new rules, as recommended by the AAC, will be less formal than

the Council procedures to facilitate broader discussions and engagement of the AAC. The new rules will also permit the electronic participation in meetings by AAC members.

### **Financial/Staffing/Other Implications:**

There are no financial or staffing implications associated with adopting the revised Procedural By-law

### **Relationship to the Strategic Plan:**

Adoption of a procedural by-law relates the strategic plan goal of "Stronger Connections in Richmond Hill" by enhancing and improving the efficiency of the Town's legislative processes at Council and Committee meetings.

### **Conclusion:**

Recent amendments to the Municipal Act and the implementation of eSCRIBE require amendments to the Council and Committee procedural by-law. Staff recommend that a new procedural by-law be enacted to include those necessary changes, as well as other clarifications and revisions discussed in this report.

### **Attachments:**

The attached documents set out the proposed changes to the current Procedure By-law. If you require an alternative format call the contact person listed in this document.

- Attachment A – Table of proposed amendments
- Attachment B – By-law 74-12, as amended
- Attachment C – Proposed Rules of Procedure



### **Report Approval Details**

Document Title:	SRCFS.18.046 - Revised Procedural By-law for Council and Committee Meetings.docx
Attachments:	- Attachment A - Table of Proposed Changes to Procedure By-law.pdf - Attachment B - Procedure By-law 74-12 - Consolidated.pdf - Attachment C - Proposed Rules of Procedure.pdf
Final Approval Date:	Sep 12, 2018

This report and all of its attachments were approved and signed as outlined below:

**Stephen Huycke - Sep 12, 2018 - 1:13 PM**

**MaryAnne Dempster - Sep 12, 2018 - 2:31 PM**

**Neil Garbe - Sep 12, 2018 - 7:45 PM**